IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 20498 of 2004

Between:

1 B. Renuka, d/o B.Ellogi, R/o. H.No.7-1-1017/18,
4th Floor, Nalla Bazar, Secunderabad.
2 B.Shankar, s/o B.Ellogi, R/o. H.No.7-1-1017/18,
4th Floor, Nalla Bazar, Secunderabad.
3 B.Uma, d/o B. Ellogi, R/o. H.No.7-1-1017/18,
4th Floor, Nalla Bazar, Secunderabad.
4 B.Sangeetha, d/o B.Ellogi, R/o. H.No.7-1-1017/18,
4th Floor, Nalla Bazar, Secunderabad.

..... PETITIONERS

AND

Municipal Corporation of Hyderabad, rep., by its
Commissioner, Office at Tank Bund, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ order or direction more particularly one in the nature of writ of mandamus, declaring the action of the respondent in interfering with the construction and threatening to demolish the structures raised in premises bearing No.3-3-540, Rangarez Bazar, Near Mahankali Temple, Secunderabad without considering the explanation submitted by the petitioner to the Notice dt.28-9-2004 as illegal, arbitrary, unjust and contrary to the provisions of H.M.C. Act, 1955 and consequently direct the respondent not to interfere with the construction work.

For the Petitioners: MR.A.NARASIMHA RAO, Advocate.

For the Respondent : SMT.G.JYOTHI KIRAN, SC for MCH

The Court at the stage of admission made the following :

ORDER:

In this writ petition, the petitioners seek to declare the action of the respondent-Municipal Corporation of Hyderabad in interfering with, and threatening to demolish the structures of the petitioners, without considering their explanation, dated 29-9-2004, submitted to the show-cause notice, dated 28-9-2004, issued by the respondent, as illegal and arbitrary, and consequently to direct the respondent not to interfere with the construction work.

According to the petitioners, to the show-cause notice issued by the respondent-Corporation under Section 452 of the Hyderabad Municipal Corporation Act, 1955, calling for the explanation of petitioners alleging certain violations in the construction made by them in their premises bearing No.3-3-540, admeasuring 67.27 square yards situated at Rangarez Bazar, Mahankali Temple, Secunderabad, the petitioners submitted their explanation, dated 29-9-2004 stating that they have made the constructions in accordance with the plan sanctioned by the respondent vide permission No.146/89 of 2004, dated 29-4-2004, and that they have not violated the sanctioned plan while making constructions. The grievance of the petitioners is that without considering their explanation and without passing any orders thereon, the officials of the respondent-Corporation, on 26-10-2004, came to the premises and prevented the labourers from proceeding with the work and threatened to demolish the structures. Assailing the impugned action of the respondent, the petitioners filed the present writ petition.

After having heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent-Municipal Corporation of Hyderabad, and considering the facts and circumstances of the case,
I deem it appropriate to dispose of the writ petition in the following terms:

The respondent shall, before taking any action on the constructions in question, consider the explanation submitted by the petitioners, dated 29-9-2004 to the show-cause notice dated 28-9-2004 issued under Section 452 of the Hyderabad Municipal Corporation Act, 1955, and take necessary action in accordance with the decision

that may be taken by him on the petitioners' explanation dated 29-9-2004, as per law.

Accordingly, the writ petition is disposed of at the stage of admission. No costs.

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N.V. RAMANA, J

Date: 22-11-2004

Svv

To

1. The Commissioner, Municipal Corporation of Hyderabad, Office at Tank Bund, Hyderabad.

2. Two CD copies.